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BEFORE THE ARIZONA CORPORATION COMMISSION

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APR 13 2000

CARL J. KUNASEK

Chairman

JIM IRVIN

Commissioner

WILLIAM A. MUNDELL

Commissioner

AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKETED BY

In the matter of

DOCKET NO. S-03177A-98-0000

FOREX INVESTMENT SERVICES
CORPORATION2700 N. Central Ave., Suite 1110
Phoenix, AZ 85004**RESPONSE TO APPLICATION FOR
REHEARING**EASTERN VANGUARD FOREX LTD.
2700 N. Central Ave., Suite 1110
Phoenix, AZ 85004c/o HWR Services Limited, Registered Agent
P. O. Box 71, Craigmuir Chambers
Road Town, Tortola
British Virgin IslandsEASTERN VANGUARD GROUP LIMITED
c/o AMS Trustees Limited, Registered Agent
Creque Building, Main Street, P. O. Box 116
Road Town, Tortola
British Virgin IslandsK. (DAVID) SHARMA
Eastern Vanguard Forex Ltd.
P. O. Box 71, Craigmuir Chambers
Road Town, Tortola
British Virgin IslandsSAMMY LEE CHUN WING
Eastern Vanguard Group Limited
Creque Building, Main Street, P. O. Box 116
Road Town, Tortola
British Virgin IslandsPETER SUEN SUK TAK
Eastern Vanguard Group Limited
Creque Building, Main Street, P. O. Box 116
Road Town, Tortola
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...

1 JAMES CHARLES SIMMONS, JR.
2 411 Hancock Lane
3 Pensacola, FL 32503-7761

4 MICHAEL E. CHO
5 839 Faxon Avenue
6 San Francisco, CA 94112

7 TO FAI CHENG
8 1800 Van Ness, 2nd Fl.
9 San Francisco, CA 94109

10 JEAN YUEN
11 439 3rd Avenue
12 San Francisco, CA 94118

13 Y & T INC. dba TOKYO
14 INTERNATIONAL INVESTMENT LTD.
15 1800 Van Ness Ave., 2nd Fl.
16 San Francisco, CA 94109

17 WING MING TAM
18 c/o Tokyo International Investment Ltd.
19 1800 Van Ness Ave., 2nd Fl.
20 San Francisco, CA 94109

21 GUO QUAN ZHANG
22 c/o Tokyo International Investment Ltd.
23 1800 Van Ness Ave., 2nd Fl.
24 San Francisco, CA 94109

25 **Respondents.**

26 The Securities Division ("Division") of the Arizona Corporation Commission ("Commission")
hereby responds to the joint Application for Rehearing ("Application") docketed on April 7, 2000 by all
Respondents in this matter except James Charles Simmons, Jr. ("Respondents") and opposes such
Application on the following grounds.

I.

RESPONDENTS GROUNDS FOR REHEARING ARE WITHOUT MERIT

Except for a claim that the administrative penalties imposed by the Commission in Decision No.

1 62403 were "excessive," Respondents' Application merely recites as other grounds for rehearing the
2 identical exceptions they previously filed against the Hearing Division's Recommended Opinion and
3 Order. All of these exceptions were originally raised by Respondents as legal or evidentiary issues during
4 the hearing in this matter. All of these hearing issues were weighed and decided against Respondents by
5 the Hearing Division in its Recommended Opinion and Order. Moreover, both the Hearing Division and
6 the Commission rejected Respondents' exceptions at the Open Meeting deliberation in this matter on
7 March 28, 2000. Respondents' Application provides no new information or argument why these twice-
8 rejected grounds now justify a rehearing and they should again be rejected as without merit.

9 Respondents' Application fails to argue or even explain why they claim the administrative
10 assessments imposed by the Commission are "excessive." Their assessment amounts are clearly within
11 the statutory discretion of the Commission conferred by A.R.S. § 44-2036(A). The Division outlined its
12 calculation of proposed penalty amounts and their statutory basis at pages 65-69 of its Post Hearing
13 Memorandum filed in this matter on April 26, 1999. These proposed assessments were adopted by the
14 Hearing Division at pages 35-36 of its Recommended Opinion and Order and thereafter imposed by
15 Commission order in Decision No. 62403. Given the large number of violations in this matter, the ordered
16 assessment amounts could well have been much higher. Clearly the Commission judiciously and lawfully
17 exercised its statutory discretion in determining the penalty amounts imposed and no rehearing can be
18 justified on Respondents' claim. Moreover, Decision No. 62403 further provides for the reduction of all
19 assessment amounts to \$20,000 for each Respondent if restitution is paid within ninety days of the entry
20 of that Opinion and Order. By simply satisfying their restitution obligation within that period,
21 Respondents will automatically reduce their assessments substantially while complying with the
22 restitution order of the Commission. Respondents' complaint of "excessive" penalties is without merit
23 and should be rejected.

24 II.

25 CONCLUSION

26 For the reasons stated above, Respondents' grounds for rehearing should be rejected as without

1 merit, Respondents' Application should be denied and Decision No. 62403 should be affirmed by the
2 Commission pursuant to A.A.C. R14-3-112(D).

3 DATED this 13th day of April, 2000.

4
5 JANET NAPOLITANO
6 Attorney General
7 Consumer Protection & Advocacy Section

8
9 By: 

10 MARK C. KNOPS
11 Special Assistant Attorney General
12 Robert A. Zumoff
13 Assistant Attorney General
14 Attorneys for the Securities Division of the
15 Arizona Corporation Commission
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1 ORIGINAL AND TEN (10) COPIES of the foregoing
2 filed this 13th day of April, 2000, with:

3 Docket Control
4 Arizona Corporation Commission
5 1200 West Washington
6 Phoenix, AZ 85007

7 COPY of the foregoing mailed and/or faxed this
8 13th day of April, 2000 to:

9 James Charles Simmons, Jr.
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11 Pensacola, FL 32503-7761
12 RESPONDENT PRO SE

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19 ATTORNEYS FOR ALL RESPONDENTS EXCEPT JAMES CHARLES SIMMONS

20 By: 
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